

13CR607

June 1, 2019

The Honorable Judge Bianco
U.S. District Courthouse – EDNY
100 Federal Plaza
Central Islip New York 11722

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUN 17 2019 ★

LONG ISLAND OFFICE

Judge Bianco:

The attached letter is addressing the repeated issues of denigration that Mr. Ken Jowdy's attorneys continue to advocate against, pursuant to their misrepresented belief that Jowdy's "clean hands" are somehow being dragged thru the mud by the U.S. government &/or other parties related to my case. In spite of the "new evidence" revelations in court May 14, 2019 by AUSA O'Connell about Jowdy's unindicted co-conspirator status (solely in another desperate attempt to draw a nexus to the Diamante Cabo project for forfeiture -- *that does not exist per their own accounting* – or based on their 2015 prosecution -- or "in reality" at any point in time), the Jowdy promoters are clearly blinded by their own-self-serving and well-paid advocacy. Nevertheless, the government's newfound reformative assertions and the breadth of the government's desired forfeiture have given pause (evoking sheer turmoil) to all involved in this matter, since I personally discovered in 2007 the tens of millions of Jowdy criminal diversions to the detriment of my investors and myself since 2002, *infra*.

The following outline should put to rest the unnecessary future defense of Jowdy by his well-paid advocates – and eliminate any doubt by those (investors) who have been misled by individuals involved in the two decades of Jowdy racketeering cover-ups at various points in time – wholly in contradiction to the empirical evidence in the government and Court's respective hands since 2009.

Shamefully, the government officials have never shared the real evidence with the investors, in fact taking such obstructive efforts to expunge the investors' post-trial abilities to see the documented truths and supporting evidence by requesting an injunction against the public dissemination of the "real truths" which exposed the synchronized cover-up at trial.

Perhaps, these documented truths, *infra*, will begin to shed light on the decades of malfeasance surrounding the Jowdy hoax – and require those involved in the cover-up to answer the questions that Kenner has publicized *infra* to his investors since 2007.

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The Jowdy hoax – those who are complicit –
And the consequences thereof...

The third party advocates for Diamante, including but not limited to Danske Bank, the Diamante Doce, LLC homeowners group, the CSL Properties LLC investors, and certainly the attorneys representing Jowdy and his respective interests, have ZERO care or concern for the truth of the two (2) decades of Jowdy's documented thefts from Kenner and Kenner investors, as well as a myriad of third parties, at this point in time. *Who could blame them?*

What cannot be accepted nor ever anticipated is that after clear and convincing evidence that Kenner had *nothing* to do with the decades of Jowdy thefts, wholly advocating against Jowdy once the crimes were discovered in 2007, ***the government does not care.***

To cover-up their wrongful prosecutorial acts, the government is attempting to make Kenner, his Baja Ventures 2006 partners (\$4.1 million invested)¹, the CSL Properties partners (\$2.3 million invested) [totaling 96.6% of the initial capital investment], the homeowners of Diamante Doce, LLC (Marc Wolinsky, Managing Member), and more than 5000 timeshare owners additional victims of their-own prosecutorial negligence – specifically considering they have *not* proven a nexus between the trial allegations of any “ill-gotten gains” and the Diamante Cabo san Lucas (“DCSL”) project.

- Yet, Jowdy's documented and ignored criminality (by the FBI lead investigator) has no bearing on the current case and certainly no nexus into the Cabo san Lucas project; specifically because in spite of Kenner's full-disclosure June 2009 FBI proffer about the majority of Jowdy's tens of millions of documented frauds (by that time), the FBI and the U.S. Attorneys office chose to deem Jowdy a victim (somehow) – instead of the documented criminal he has been since 2002 (and dating back before 2002 with other currently, unrelated parties – *See 3500-RB-1-r at 12*).
- In the event, after reading this fully documented brief about Jowdy's two decades of criminality (only a uncovered subset), if anyone is confused about how to “**follow the money**” of Jowdy's never-ending racketeering enterprise (*infra*), those involved in his protectionism, the potential forfeiture victims -- and the Court, we collectively can wait for another well-advocated response from Jowdy's over-paid attorneys (by the Cabo project) who will again espouse (something

¹ Baja Ventures 2006, LLC partners \$4.1 million documented “**clean and untainted**” investment funds raise clear **Eighth Amendment Excessive Fines Clause** issues that the government cannot overcome. The government's-own accounting (*government-forfeiture-36*) confirms the Baja Ventures 2006 “**untainted funds**”; notwithstanding what Jowdy did with the money after his, individual, receipt and sole control of the equity investment funds, while embezzling \$1.6 million from the Baja Ventures 2006 capital accounts *for his-own benefit* (in evidence).

like), “Finally, it is dispiriting to the DCSL Parties that this case continues to be used as a forum in which to unfairly malign...Mr. Jowdy in particular, as evidenced by some of the recently arguably defamatory filings by third parties falsely accusing Mr. Jowdy of wrongdoings.” (Document 664 at 2-3), we should hold our bated breath again for the next lobbied defensive response.

- The following evidence will leave no equivocation as to the root of all evil that has emanated since 2002 (Jowdy's initial documented thefts known by the government) through and including *potential* Danske Bank and Lehman Brothers complicity, *infra*, in the decades of unchecked Jowdy racketeering (See Document 628, Kaiser's confessions of his complicit ongoing Jowdy frauds with Jowdy from 2012-2017).

Multiple distressed parties exist as a result of the Jowdy-protectionism...

The truth at this point in time is that there are multiple desperate parties who have been dragged thru this 2-decade debauchery (since 2002) based on the FBI protection and “*above the law*” tactics that have left thousands of innocent purchasers and investors in the DCSL resort at risk. The cover-up under the orchestration of the current FBI case agent is clearly worse than the decade-plus of the original crimes effectuated by Jowdy and his cabal now dragging thousands more potential victims of Jowdy's into the current fracas.

- ***Jowdy's initial crimes (as Kenner proffered to the FBI in 2009) totaled well-over twenty (20) million dollars (\$20,000,000) of front-end investors equity and loans thru Jowdy's singular control, at all times.***

Under any evaluation, at this point, why should any of them care about the Jowdy criminal enterprise extending two (2) decades? The investors simply cry for *any* return of funds from the Jowdy thefts; despite the clear facts that there are no related diversions to Kenner from the funds Jowdy received and exclusively controlled for the Mexico projects (or any others, *infra*, that Jowdy maintained iron-fist power over since 2002 with his cabal members) (See CSL Properties LLC' submission to the Court: filed February 1, 2019). The myriad of Jowdy-victims resulting from the FBI cover-up, or the fact that the FBI case agent has manipulated well-documented stories to the investors since 2009, and disseminated them thru Jowdy's PR machine and the manipulated investors, has created an atmosphere of worn-out investors (including Kenner) who are all simply looking for answers on how to recover money that Jowdy, *and only Jowdy*, has stolen, embezzled and diverted for his cabal's own interest – no matter who becomes his new-fangled “*victim of the day*”.

- The CSL Properties investors are rightfully concerned about an over-reaching forfeiture effort (as their February 1, 2019 letter projects to the court), but neither their current personal financial situations nor desperation to recover funds is in any way related to “ill-gotten” funds that Kenner acquired; and certainly not from the Hawai’i or Mexico project funds.
- Some of the investors have unfortunately spent themselves into their-own financial crisis (well documented in the government's possession), but again if the government would simply “*follow the money*” (as this document will lay out for all concerned), all will see that the same person the investors desperately follow is one is the same person who defrauded them initially for over \$20,000,000 and nearly two decades; *Ken Jowdy* – no one else (regardless of the voices of Jowdy's ulterior-motive protectorate).

The facts are clear that Jowdy's racketeering machine has been ignored “as a favor to someone” – assuming “for pay”, there are two (2) tiers of justice in our American Republic at work. The influence of the people involved (specifically the FBI case agent) in Jowdy's documented protection (and bribery **admissions** in 2010) has allowed Jowdy's cabal participants to easily manipulate the remaining investors as clearly evidenced by the current Mexico investors’ attorney (Steve Main) corroborating Jowdy's innocence in 2017 as a result of full-government investigations (?):

Cabo investors’ Attorney Steve Main declared via email to the Hawai’i-Mexico investors, February 20, 2017:

“Finally for those of you who are convinced that Jowdy is guilty of some crime... I simply note that the circumstances surrounding the Diamante del Mar project and the Cabo project (and the relationship between Kenner and Jowdy) has been exhaustively investigated over several years by the FBI, SEC and the U.S. Attorney of the EDNY.”

- The only reasonable source for Main to mislead his legal clients (at CSL Properties) would be information from the FBI case agent (Galioto) &/or Jowdy's legal team (led by Freeh and Harvey); or more likely both, *corroborating each other*. It is not possible that his salient statement was represented in “good faith” or with specific knowledge from any reliable independent source – since 100% of the documented facts since 2002 refute its mere representation; *verifying more complicit frauds (perhaps extending to Main, himself, “for pay” or “under duress”)*.
- Two (2) years after the investors’ attorney’s “**misinformed**” representations to the investors, it led the unknowing investors to sign their 2017 settlement agreement with Jowdy (See *Peca objections – Documents 482 & 627*) and sign-off on a dishonest

press release². Yet, in full contradiction, AUSA O'Connell explained to the Court on May 14, 2019 (See May 14, 2019 hearing transcripts at 37):

The Court: Are you concerned with how the property is being managed at this point, I mean just in terms of maintaining status quo?

*AUSA O'Connell: Your Honor, the government does have certain concerns that its being run by **Jowdy, who is someone that the government feels is an unindicted co-conspirator.***

Who forgot to include AUSA O'Connell (or anyone else who knows the real truths of Jowdy's 100% criminality) in the disclosure communications with the investors' attorney – with this trial-changing “new evidence”? AUSA O'Connell was certainly involved in the *USA v. Kenner* case long before the February 2017 misrepresented disclosure by Attorney Main. *Has anyone informed Main to the contrary since that falsity was espoused?* O'Connell participated with Jowdy and the government's joint disclosure (*government-forfeiture-44*) during their 2016 forfeiture hearings, which

² Please note that the government's evidence has 100% verified that Jowdy absconded with 100% of the Hawai'i-loan funds **with none to Kenner** (*See government-forfeiture-44*) -- and Jowdy and his cabal misappropriated tens of millions of dollars of DCSL and other Jowdy-controlled project(s) deposits **with none to Kenner** (*See government-forfeiture-36*).

- **Jowdy stole and misappropriated all of the funds related to the lawsuits in Arizona, Nevada, California and Mexico that he was sued for.**
 - **The evidence is irrefutable – and the government has it in their possession.**

Jowdy was sued for exactly those thefts and misappropriations. Jowdy verified his own thefts during his January 2010 California deposition (in evidence) -- and re-verified them to the FBI during his February and March 2010 proffers. There is no equivocation about each and every theft and misappropriation that Jowdy's investor group, between 2007 and 2014, sued Jowdy to recover -- and his respective confessions.

Nevertheless – the slander-ridden press release as part of the Jowdy settlement terms and conditions with the investors has left another deceitful and falsified scar on those related to the DCSL project, as evidenced by Diamante Doce Managing Member, Marc Wolinsky's open court proffer on May 14, 2019 that:

*[Wolinsky]: “...if you Google the property like I did before I purchased, I would have seen that Mr. Kenner originally filed a lawsuit against Mr. Jowdy accusing him of fraud – that lawsuit was dismissed. The government indicted Mr. Kenner, and **Mr. Kenner turned out to have snuckered the hockey players into wrongly suing Mr. Jowdy.**”*

- This is clearly not correct based on Jowdy's-own well-hidden confessions -- from the investors and the public at-large.

Jowdy “snuckered” everyone!!

confirmed that Jowdy **did**, in fact, **receive 100% of the Hawai'i loans** (to him personally) – **and 100% of the intended Cabo equity deposits**; \$4.1 million for Baja Ventures 2006 (owned by Kenner, Stumpel, and Lehtinen)³ -- and \$2.3 million for CSL Properties (owned by 13 individual investors – mostly represented by Attorney Main).

The FBI false rhetoric that “Kenner stole your money – and Jowdy never got it” fails -- But continues to be concealed from the actual investors...

The basic, and critical false premise that “*Kenner took your money – and Jowdy never got it in Mexico*” back-story originates with Jowdy's attorney's (Tom Harvey) email threat to Kenner in April 29, 2009 [*BATES: ED-0003068-3069*], with known-false allegations about the source of the Kenner – Baja Ventures 2006 equity capital account contributions. \$1.6 million of the actual money was stolen by Jowdy (his client), *supra* – and covered-up with the unethical help of Jowdy's 2012-2017 co-conspirator, John Kaiser (See Document 628), while alleging more false “forgeries” to a Mexico court (in the *Stumpel v. Jowdy* criminal case). In April 2009, Tom Harvey alleged the “*loans were fake*” – and according to his extortion threats, that is why Kenner's Baja Ventures 2006 partners got a 38% [sic] share of the Cabo project. **It was clearly wrong.** Apparently, Harvey and Jowdy forgot their-own 2009 extortion threats to Kenner when **Harvey** delivered (for Jowdy) the information that made up *government-forfeiture-44*, confirming that Kenner did not steal any of the investors equity deposits -- or any of the 2004-06 well-documented and authorized Hawai'i-Jowdy-loan funds; *Ken Jowdy exclusively did*.

- Their-own 2009 extortion allegations are debunked by their-own future 2015 admissions (again – but only post-trial, *yet reformatory and unresolved*). The

³ The government's own accounting (*government-forfeiture-36*) of the Baja Ventures 2006 members' deposits -- in 2005 -- **confirms that \$4.1 million of “clean and untainted funds”** were deposited into 100% Jowdy-controlled accounts for the Diamante Cabo san Lucas project – **exclusively for Baja Ventures 2006 equity**. Jowdy *independently* chose to steal and divert \$1.6 million of the deposited funds (as evidenced by *government-forfeiture-36*) for his own-personal benefit, unknown to the Baja Ventures 2006 investors; until after the March 2006 Cabo closing.

***Government-forfeiture-36* also confirms that Baja Ventures capital account deposits totaled \$4.1 million, yet Jowdy fraudulently recorded only \$2.5 million at the closing for Baja Ventures 2006. Nevertheless 100% of the \$4.1 million came from untainted funds; and certainly having nothing to do with the 2015 trial of Kenner.**

Any alleged nexus is unfounded – using the government's own accounting, *supra*, to confirm its “no nexus” status. Yet -- the government continues to promote the falsity in light of its-own refuting evidence, leaving at risk not just Kenner's Baja Ventures 2006 partners, but nearly 7,000 other legit investors – ***all to protect the two (2) decades of documented Jowdy racketeering conspiracies and all future embezzlement plans***.

government has ignored the extremely controversial revisionary issues
government-forfeiture-44 has raised in the Kenner conviction.

**Bryan Berard's FBI recording exposed the Kaiser-Jowdy "forgery" cover-up
scheme in Mexico, to the FBI, the U.S. Attorneys office –
And to this EDNY Court...**

Jowdy and Kaiser's "forgery" claim is debunked by a Bryan Berard 2012 FBI recording – fully documenting the Jowdy-Kaiser "forgery" lies, this time to the 2012 Mexico courts and ultimately to the 2014 EDNY court (including the FBI and EDNY U.S. Attorneys office). **The FBI case agent is aware** of the 2012 Kaiser-fraud that protected Jowdy and guaranteed the dismissal of the *Jozef Stumpel v. Jowdy* \$1.6 million criminal lawsuit in Mexico (at that time). **The FBI case agent is also aware** of the subsequent 2014 misrepresentations to the EDNY court (pre-trial) of the same said forgery; now proven as a lie by Berard, in concert with his then-new boss, Ken Jowdy. The fake "forgery" claims from Jowdy cabal members emanate throughout the decade-plus of Jowdy cover-up and back-stories about how Jowdy got the funds that he proclaims as "his" despite being rooted in pure larceny and graft. They are exposed by Jowdy's own bank records in the government's hands and ignored to the detriment of all involved – and especially now to the potential future victims of the government's reckless forfeiture claims – with "no nexus" to any Kenner activity (based on the government's-own accounting) or any Cabo san Lucas equity (perhaps other than to Jowdy's 'ill-gotten" KAJ Holdings, LLC funds).

The government has simply chosen ten years into this epic fabrication to ignore their-own accounting and attempt a financial recovery for their-own decade-plus of financial carelessness and spending to "eliminate" the one person (Kenner) who can "connect the dots" of the Jowdy cabal criminal activity in the USA and Mexico since 2002 (even though they knew the truths -- since Kenner's June 24, 2009 FBI proffer).

**Follow the money –
Or as Kenner said – "Trace it, trace it all"
(But alleged as a "cover-up" by Kenner in some alternative universe of bizarro-
transparency)...**

Before and after the 2015 trial conviction, the FBI case agent has perpetrated an additional fraud on the former Kenner investors. They have been convinced that "*Kenner stole all of the Mexico money*" – before Jowdy ever received it. The AUSA during trial proffered this lie to the court and jury repeatedly (*Trial Tr.5721, 5722-5723, 5990*). And, in order to replace the "stolen money" and fund the actual Cabo investment

deal, the government claimed to the investors and jury that Kenner created a “Hawai’i loan scheme” to replace the \$6,000,000 plus Kenner was alleged to have stolen; **all 100% untrue based on Jowdy’s bank records and the government’s-own post-trial accounting (and notwithstanding reality).**

Jowdy co-conspirator from 2012-2017 confirmed the hoax in his February 2019 submission stating (*Document 628 at 1*):

“Jowdy would like the Court to think that Kenner stole \$7 million from the Hockey Players...”

100% of the banking records confirm that Kenner stole ZERO dollars. But – the FBI case agent and Jowdy’s cabal have perpetrated this LIE since Kenner’s June 2009 proffer to all of Kenner’s former investors -- and any other party that is involved in the Jowdy universe; when the truth is that Jowdy got it all and stole it, *supra and infra*. Each of the investors was told that the FBI had traced the Kenner stolen funds, and they would be returned upon a Kenner conviction from Kenner’s accounts (per Kristen Peca’s declaration during her 2012 FBI recordings of Kenner).

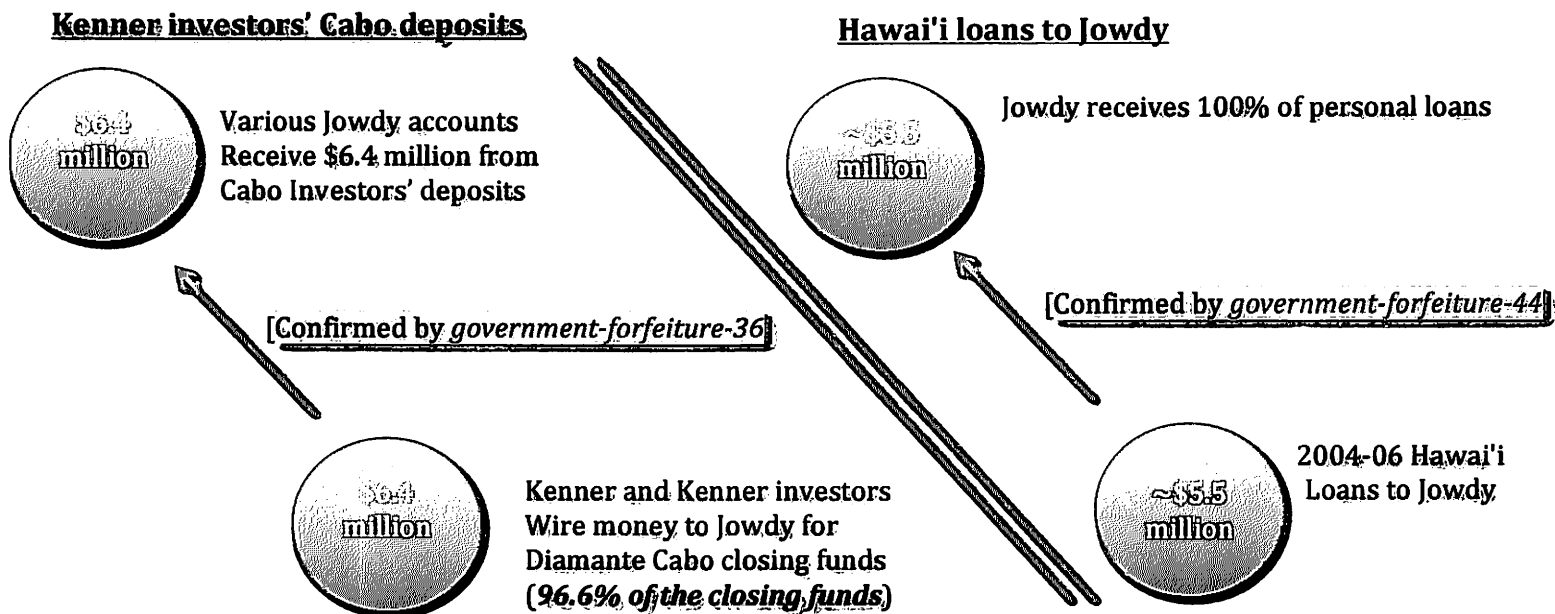
- *It is another cover-up fraud that continues to be ignored and proven untrue.*

The most ridiculous anomaly is that unluckily for this fabricated scenario to truly exist, the actual beginning of the 2004 Hawai’i-loans began almost one (1) full year too early. In early and mid-2005, Kenner (personally funding the majority of the Cabo expenses) and Stumpel, and Lehtinen deposited over 65% of the ultimate Cabo deposit funds (all documented by the government -- before any other investors were involved). Thus, the historically revisionary story by the FBI agent that Kenner stole the late 2005-06 Mexico deposits and covered them up with “fake Hawai’i loans” *fails before it begins (1 year too early – at least)*. **Logistically – it is out of order; thus utterly embarrassing for the fabricators -- and empirically untrue.**

- Yet – how would the investors be expected to disseminate this level of detail when the “beyond reproach” reputation of the FBI “delivers the information”?

No nexus between the actual two (2) independent sets of funds exist...

The actual events/transfers – *in absence of nexus* – are as follows:



The government's-own accounting, *supra*, leaves no question that there is an absence of nexus.

The Baja Ventures 2006 and CSL Property deposits total 96.6% of the Cabo documented Cabo equity deposits...

The DCSL closing documents affirm that Lehman Brothers Banker, Masood Bhatti, deposited another \$100,000 for a disproportional 3% of the Cabo equity (but as Jowdy's co-conspirator, Jowdy certainly would not have discouraged any demanded percentage by Bhatti). With Bhatti's \$100,000 included, 98.1% of the Cabo capital accounts are funded by funds the government and Jowdy have traced. This creates an enormous Eighth Amendment – Excessive Fines clause – issue for the government – even if they could assert that the remaining \$125,000 of fungible deposits was somehow attributable to “ill-gotten gains” – but they cannot.

- This should represent the sole argument needed for Kenner – the Baja Ventures 2006 partners -- the CSL Properties investors – and the nearly 7,000 other Cabo investors/purchasers who have nothing to do with the

**Jowdy crimes since 2002 (other than as well-documented victims) –
altogether eliminating the government's wrongful attempt at forfeiture.**

In fact covering more than the fungible \$125,000 in the Cabo capital accounts, *Jowdy admitted* in his December 2010 Nevada case defense that he “*stole \$500,000 from Glen Murray in Nevada and sent it to Mexico for Cabo deposits*”. Jowdy is the only person who has an accounting discrepancy [KAJ Holdings – 100% owned by Jowdy] with his alleged capital account (discussed *infra* – after Jowdy and attorney Souther availed Jowdy to this EDNY Court with perjury issues as a result of another fabricated cover-up “back-story” of how Jowdy once again ended up with someone else’s money) (*Document 611-1, Footnote 4 at 7 – attached to Attorney Souther’s January 2019 court submission*).

DCSL related frauds by Jowdy
(In government evidence – and ignored since 2009)...

When Jowdy was caught red-handed by Kenner embezzling funds and diverting resources in 2007 (for all years prior), Jowdy attempted to negotiate a settlement through 2008 with Kenner and Kenner investors in order to be released (receive complete criminal amnesty) from all wrongdoings in return for returning his ill-gotten equity in the Cabo san Lucas project, projects’ embezzlements, and unpaid loans (all in evidence). Jowdy originally agreed to turn over the lion’s share of his Cabo equity (down from 40% to 10%) and total management control to nominees of Kenner and the investors. These negotiated settlements (and their terms) are well documented in settlement agreements and emails between Kenner and Jowdy (through their respective counsel for transparency) and several interested mediating parties; including Kenner’s co-defendant (Tommy Constantine) in the Indictment. As a result of Constantine's efforts versus Jowdy in 2007-2010, Constantine became another archenemy of Jowdy and his attorneys after the settlement talks terminated.

Jowdy Diamante Cabo san Lucas criminal frauds (only a subset):

- Misappropriation of the closing deposits (at a minimum -- \$2.5 million stolen by Jowdy for KAJ Holdings),
- Forgeries of Kenner's name on *government-forfeiture-61* and *government-forfeiture-62* (further debunking the DCSL February 2006 fabricated transfer story, *supra*, and *Document 611-1, Footnote 4 at 7*),
- DCSL’s DCSL budget thefts from the Diamante S. de R.L. de C.V. account – TD Bank North -- #398-2295710) (subset only of early DCSL budget thefts),

- Jowdy's DCSL villa deposit thefts from the Diamante S. de R.L. de C.V. account (from TD Bank North -- #398-2295710) – utilizing Baja Development Corp (TD Bank North -- #398-1345276),
 - And, utilizing Jowdy's brand-new-2007 money laundering account Laurel CV Management, LLC (#424-1064916) to personally secure his 50% equity in the new Jowdy-Lehman Brothers Tennessee project [at Laurel Cove]⁴ – *a.k.a. Racketeering* -- and
- Jowdy-Danske Bank frauds documenting \$8.4 million of Jowdy equity (as the only equity deposit investor) after the September 2008 Lehman Brothers bankruptcy filings.

Misappropriation of the closing deposits (\$2.5 million stolen by Jowdy)...

After Jowdy and his New York attorney, Tom Harvey, terminated the 2007-08 negotiations with the Hawai'i-Mexico investors -- they fabricated Jowdy's "transfer", cover story (after Jowdy and Harvey explained in Jowdy's 4-12-2009 Nevada deposition that Harvey was unaware of Jowdy's dealings "at that time" – *See Jowdy Nevada Tr. 45-46*).

- **Only 15 days later – Harvey was well versed “*enough*” to send his 4-29-2009-extortion email about “all things Jowdy and Diamante” to Kenner's attorney (in evidence). Harvey *threatened* FBI jail time for Kenner – ironically for same “fake loans” that he and Jowdy ultimately verified to the U.S. attorney, the FBI and this EDNY court in 2015 (wholly revising the prosecutorial themes versus Kenner, that Kenner “stole” those funds).**
- **Clearly it was untrue at all times – but part of the initial Jowdy-Harvey cover-up claims.**

At that time, Jowdy and Harvey began claiming Jowdy gave of 5% equity from his Diamante del Mar (“DDM”) (first Mexico project) to Kenner (from Jowdy's Baja Management shares) in February 2006 in exchange for Jowdy's \$2.5 million capital account (somehow from the Hawai'i loan funds)⁵. If true, this “transfer” would have

⁴ In the government's production of evidence pre-trial (2015), there are millions of dollars of diversions shared between the banking accounts for the various Jowdy projects [DDM, DCSL, Laurel Cove Tennessee, and Boot Ranch Texas] ***without any plausible explanation – except cover-up, graft and fraud.*** The majority of partners in the various deals are different. Thus, without transparency and authorization, there is no acceptable excuse or well-paid advocacy that can explain or defend the millions of criminally laundered funds; specifically to the detriment of the various investors who have collectively suffered from the decades of Jowdy racketeering.

resulted in Kenner owning 15% of the DDM project (if true) after Harvey-Jowdy's February 2006 transfer story. *This fails for a multitude of reasons* (all empirically documented).

First – Kenner and Jowdy exchanged an email on June 19, 2005 (7 months before the alleged transfer cover story by Jowdy). The June 2005 email confirms that Kenner **already** owned 10% of the DDM project, at that time. The exculpatory email – **debunking Jowdy's story** -- was turned over by Jowdy and his California attorneys in January 2010. It is BATES STAMPED by Jowdy as *KJ0274-KJ0275*. On the email, Jowdy actually corrected a different equity mistake to further corroborate Kenner's 2005 10% stake. The FBI agent has been fully aware of this since Kenner's June 2009 FBI proffer. Jowdy's Document 611-1 affidavit claims: “*This transfer increased Kenner's ownership interest in Baja Management from 5% to 10%*”.

- **If true – it would have increased it to 15% per Jowdy's own email – proving Jowdy's deceit.**

Second – Jowdy's own 2007 Baja Management (DDM) tax forms debunk Jowdy's fraudulent attempt to historically revise the truth surrounding his 2006 DCSL capital account theft. Jowdy's attorneys turned over evidence: “*15375-15400 2007 Baja Management, LLC*” to the government pre-trial. On Jowdy *BATES STAMP 15393*, Jowdy's own tax accounting verifies Kenner only has a 10% stake in 2007 – instead of 15% *if* the February 2006 transfer-increase were true.

- Jowdy's personal 2006 (or 2007) tax records do not record the \$2.5 million “gain” that Jowdy would have been required to report to the IRS – since he paid ZERO – or as recognizably close to ZERO dollars for all of his DDM equity. It is yet another confirmation of the cover-up fraud – **and an IRS fraud.**

Third – Jowdy gave 2009 arbitration testimony that his attorney Fernando Garcia (from Mexico) created two separate 2005 loan agreements with Kenner on behalf of the Hawai'i loans. The government disclosed them during the forfeiture hearings as *government-forfeiture-61* and *government-forfeiture-62*. The documents have Kenner's name “forged” on them (a now-proven Jowdy cabal pattern). This Court has requested the originals from the U.S. Attorney office (thru Jowdy's counsel) on multiple occasions, but the government has repeatedly ignored the Court's request for the originals, knowing they will be thoroughly embarrassed and called to the mat again for another Jowdy, Kaiser, Berard “forgery fraud” on this EDNY court.

⁵ Jowdy stole \$1.9 million (\$1.6 million from the Baja Ventures 2006 deposits -- and \$300,000 from the CSL Properties deposits) – thus the \$2.5 million has no reconcilable accounting for the theft other than Jowdy “just makes up whatever he desires” – with only \$125,000 specifically unaccounted for per *government-forfeiture-36*.

If *government-forfeiture-61* and *government-forfeiture-62* were actually REAL (which they are not), Jowdy would have already had a \$1.25 million equity stake in the DCSL capital accounts in 2005 -- before the fabrication of his February 2006 transfer story. *Although \$1.25 million is apparently not much to Ken Jowdy, it is to the rest of the world.* Thus, Jowdy's-own 2005 forgeries (both of them) refute his future historically revised “excuse”, years later. It is wholly understandable with the morass of Jowdy cover-ups and the myriad of involved cabal members over two decades that several of the lies and cover-ups could get mixed-up – as evidenced here.

- It should be specifically noted that these fake, fabricated and forged 2005 documents that Jowdy turned over during his 2009 arbitration testimony (for some unknown reason) clearly refer to the 2004 Hawai'i-loan agreement – since no other “**Private Promissory Contractual Relationship**” exists anywhere else between any of the involved parties.
- In Jowdy's attempted cover-up, in order to authenticate it with the forgeries of Kenner's name (2x) (somehow), Jowdy and Garcia utilized their-known 2004 Hawai'i lending agreement with the Hawai'i partners as the reference of the deal, further verifying the veracity of the 2004 Jowdy-Hawai'i loan agreement.

**Jowdy's Cabo budget thefts from Diamante S. de R.L. de C.V. account –
TD Bank North -- #398-2295710...**

The specific thefts from the DCSL accounts by Jowdy were documented for the Court in Kenner's August 9, 2018 submission – refuting Jowdy’s attorney bluster about Jowdy being wrongly accused of fraud and graft, but they continue their defense of Jowdy's criminality nevertheless in the face of the public, empirical evidence.

In the DCSL deal (which began March 26, 2006 thru Lehman Brothers’ funding), Jowdy’s advocates can try to explain to this Court and the Mexico investors why the month *after* Jowdy drained the concealed February 21, 2006, \$3 million, Diamante del Mar (“DDM”) loan from KSI hard-moneylenders of New Jersey⁶, and Jowdy began his systematic looting from the DCSL accounts (*opened March 2006*), *as follows*:

⁶ Jowdy immediately diverted *over \$650,000 to himself and his brother-in-law, William Najam*, within five (5) weeks (discussed *infra* -- February 21 thru March 29 of 2006) from the KSI Capital loan. The thefts and diversions culminated in \$10 million-plus in additional losses to Kenner and Kenner DDM investors thru the eventual DDM loan default and the underlying millions diverted from the original investors’ equity funds by Jowdy and his family (*all in Rule 16 bank records*) – for admitted (to the FBI) and unrelated “stuff”.

DCSL bank records [BATES -- 11095-11315 DCSL Bank Statements]:

June 2006 [BATES -- 11256]: 6-5 -- \$80,000 personally to Jowdy (*via check*)
6-8 -- \$185,000 diversion to DDM account⁷

August 2006 [BATES -- 11265]: 8-4 -- \$125,000 diversion to DDM account
8-9 -- \$115,000 diversion to DDM account

August 2006 [PKHome-16860]: 8-10 -- \$100,000 diversion to Jowdy's 100% owned
Baja Development Corp account *from Owen Nolan's DCSL investment funds*

October 2006 [BATES -- 11269-70]: 10-4 -- \$150,000 diversion to DDM account
10-6 -- \$20,000 personal withdrawal (*while also on DCSL payroll*)
10-6 -- second \$20,000 personal withdrawal (*while also on DCSL payroll*)

Nov 2006 [BATES -- 11272-74]: 11-1 -- \$250,000 diversion to DDM account
11-17 -- \$20,000 personal withdrawal (*while also on DCSL payroll*)
11-30 -- second \$20,000 personal withdrawal (*while also on DCSL payroll*)
**** Jowdy personally spends \$83,285.54 on airplane expenses wholly unrelated to the DCSL project.**

December 2006 [BATES -- 11283]: 12-1 -- \$200,000 diversion to DDM account
12-29 -- \$200,000 diversion to DDM account
12-29 -- \$32,669.71 diversion to DDM account
**** Jowdy sends \$19,919.44 to an alternative DDM account -- mismarked as airplane expenses [Diamante Air].**

These are only *some* of the Jowdy embezzlements from the DCSL project (from the first five (5) months).⁸ **These diversions total \$1,437,589.15; not counting Jowdy's airplane diversions of over \$80,000.**

⁷ No funds were owed by DCSL to DDM at the time of the Lehman Brothers March 2006 closing. This same footnote applies to all diversions to the DDM account (*100% under Jowdy and William Najam's control at all times*). It should be noted that the majority of the Jowdy diversions from DCSL to DDM, *infra*, are into DDM accounts that are not traceable (not in the government's Rule 16 evidence), since Jowdy was running *multiple* DDM bank accounts for laundering the embezzled DCSL funds -- further disguising his money laundering frauds with Najam.

- **These numbers are from Jowdy's own banking records and have no plausible excuses.**

Jowdy cabal RACKETEERING efforts (one of many):

CABO SAN LUCAS Golf Villa deposit THEFTS by Jowdy (2007)...

Pre-trial -- the government received evidence of the Jowdy DCSL villa thefts directly from Jowdy (or a Jowdy subpoena) -- and ignored them to frame their 2015 “Kenner stole the money” theories – as evidenced by the government BATES STAMPS...

In January 2007 -- only one year after Jowdy's unabated access began to the 2006, \$125 million Lehman Brothers loan and monthly travel and entertainment thefts (*approved by Bhatti at Lehman Brothers*) most of which had no relevance to the DCSL project itself – **but it included Bhatti's joint travel to find other resorts to fund together at the investors' unknowing expense.**

With no checks-and-balances in place (thru Bhatti's governing eye) -- **Jowdy decided to loot the DCSL Villa deposit accounts (#424-1064487)...**

- Jowdy's thefts did not end after he gained access to the \$125 million Lehman loan funds in March 2006 – **they only continued in conjunction with Bhatti from Lehman Brothers at a defter pace...**
- Jowdy diverted \$130,000 from Cabo villa deposits from the first 2 golf villa investors – immediately in month one. [*BATES: BX19-SD-0001418*].
- Then -- Jowdy DIVERTED the balance of the deposit funds (all in evidence) until only \$10,000 remained in the deposit account several months later – and Jowdy was forced to repay the deposits in December 2007 by Kenner (when settlement negotiations were breaking down).
- ❖ **Ultimately – Jowdy's crowning accomplishment in this series of thefts was that the final \$225,000 of DCSL Villa deposits enabled Jowdy to fulfill his \$225,000**

⁸ This EDNY Court should understand that all of these representations come from bank records Jowdy produced pursuant to an FBI subpoena, shortly after Kenner proffered to the FBI on June 24, 2009, **fully alerting the FBI to many of Jowdy's known crimes, confirmed again, 5-days later by Jowdy personal assistant to Agent Galioto – and ignored** [*3500-SH-1-r*].

Jowdy's bank records have accounting “markings” and “designations” that hi-light Jowdy's actual illegal diversions, thus, known at all times to the FBI (*with their own accounting markings*), yet contradicted by the AUSA in opening remarks at trial (*Trial Tr. 31*).

cash deposit requirement when funding his 2007, Lehman Brothers-Bhatti funded, Laurel Cove development in Tennessee – while acquiring 50% equity thru another Bhatti-Jowdy racketeering scheme (just like the Boot Ranch Texas project which funded within months) (in evidence) [BATES: BX19-SD-0001432].

- The final DCSL villa account thefts are documented as laundered thru Jowdy's Baja Development Corp account [BATES: DIAMANTE-0000135].

The Lehman Brothers-Tennessee (Laurel Cove) closing documents confirmed the same-day Jowdy laundering scheme [BATES: IHR LBI JOW 0000151 et.al.] – which also passed thru another new-Jowdy account (opened that exact day – solely for the money laundering scheme on May 15, 2007) [BATES: BX19-SD-00001305 et.al.].

Including the 2007 Laurel Cove closing funds, all of the villa deposits were diverted to Jowdy's money laundering account; Baja Development Corp. (#3981345276).

- It should be noted that in order to facilitate the government's “no bail” position pre-trial adverse to Kenner, the government alleged that Jowdy's Baja Development Corp. belonged exclusively to Kenner – and that account would be Kenner's “escape funds”.
- The government knew since Jowdy's March 2010 FBI proffer to agent Galioto (at the latest) that Jowdy owned that account 100% [See 3500-KJ-2 at 2]; *further and knowingly defrauding this Court and Kenner.*

Jowdy-Danske Bank frauds documenting \$8.4 million of Jowdy equity
(And the only equity deposit investor) after the September 2008 Lehman Brothers
bankruptcy filings...

In 2008, Jowdy was able to establish a “connection” with Danske Bank officials when his other two Lehman Brothers funded deals were defaulted after Jowdy and Bhatti looted their budgets for 18 months (in evidence) prior to the September 2008 Lehman Brothers bankruptcy filings. The connection to Danske Bank occurred thru former Lehman Brothers banker and current Jowdy co-conspirator, Masood Bhatti (*See Document 628 at 2*).

After communication was established, Jowdy and his attorneys terminated all communication with the Kenner and Kenner investors' negotiations. In order to facilitate Jowdy's role as the “patron” in the DCSL deal, Jowdy and his cabal represented to Danske that Jowdy contributed \$8.4 million of contributed capital (a.k.a. bank fraud) to

the DCSL project (when in reality 100% originated from Kenner and Kenner investors)⁹ [*BATES: BNK-DANSKE-000002*]; ***none from Jowdy.***

During attempts in 2008-09 to communicate directly with Danske Bank in London (thru the original banker, Peter Hughes), Kenner and the investors' attorneys were informed that they had "no money" in the deal according to Jowdy, and as such, they would only communicate with Jowdy as the sole equity contributor and Managing Member.

Former Jowdy admitted co-conspirator, John Kaiser, revealed the myriad of ongoing cover-ups and "inside" deals with which Jowdy continues to fleece the DCSL project and its mis-informed investors -- perhaps complicit with Danske Bank (Document 628)...

Jowdy's 2019 cries of "being on the brink of insolvency" are nothing new to Jowdy's "steal anything possible" development regime. In 2008, the Danske Bank deal outline (over ten years ago) also outlined the \$18 million in desperation as follows (while already under Jowdy's pilfering control for 2-1/2 years). The Danske document verifies:

Future Funding Obligations: According to the summation information provided, approximately \$18,000,000 USD remains unfunded.

Construction and Development Risks: Without additional funding (which is estimated to be \$18,000,000 USD), the balance of the pre-development work will not be completed...

Jowdy gave deposition testimony in January 2010 that confirmed he could not ascertain where "**he personally signed off on**" any more than \$13 million of the then-exhausted \$50 million of pre-bankruptcy financing, because the lion's share (approximately \$37 million) was diverted (according to the banking records, to DCSL budget items that were never worked on and certainly lacked completion while nearly 1-1/2 years past due and millions over budget. In reality, they were simply embezzled through overlooked budget line items by Bhatti's hand-picked "3rd party accounting evaluation firm" in California [complicit on all three 2006-2008 Jowdy-Bhatti budget looting enterprises:

- 1) DCSL,
- 2) Laurel Cove [Tennessee], and
- 3) Boot Ranch [Texas]).

⁹ See the government's-own confirmation of the "actual" source of the funds at *government-forfeiture-36* and *government-forfeiture-44*.

Jowdy's January 2010 testimony about the DCSL budget thefts affirmed:

Q. Okay. So you spent 50 million dollars on the structures and on the development of that land?

A [Jowdy]: Approximately.

*Q. I know most people build a hotel before -- or homes before they build a golf course. But, anyway, I just want to know, what did the golf course cost? I know that you -- you have the opinion that you have to have the desalination plant first. If you want me to ask you that question, I will. **What did the desalination plant cost?***

A [Jowdy]: 5 million dollars.

Q. Okay. And then -- then after that, what was built next?

*A [Jowdy]: Golf course. Wait. Things happened concurrently. So **the golf course is roughly 8 million dollars.***

- Jowdy could not describe any other expenses at that point (**4 years into his management control of the deal**), leaving approximately \$37 million unaccounted for by the one person whose sole job it was at that time to manage the construction of DCSL.
- *Jowdy did not describe \$37 million and forget \$13 million; it was just the unimaginable opposite.*

Jowdy and Najam attempted to bribe Kenner to “go along” with them behind the investors’ backs (just like Kaiser and Berard acquiesced to in 2012)...

- **Kenner DECLINED the bribe immediately.**

After Kenner discovered their embezzlement and fraud schemes in Spring 2007, Kenner was offered a 20% equity stake in the Texas project and FBI protection by Jowdy and Najam in May 2007 to “go along” with their looting schemes (verified by Jowdy in his January 2010 deposition). Kenner immediately DECLINED *during* the face-to-face Cabo san Lucas meeting – and exposed their graft to the Mexico-Hawai’i investors and immediately engaged attorneys to represent the investors. Within days, Najam emailed Jowdy on May 8, 2007, and warned him that in their newfound racketeering efforts in

Tennessee with Lehman Brothers-Bhatti and them, they needed to be extremely careful not to get another “partner like Kenner” [BATES: 27888]. Najam stated (in a fully telling moment of frustration with Kenner – hi-lighting the fact that Kenner was clearly never Jowdy's co-conspirator when the “fruits” of any alleged co-conspiratorial operation would have been the Lehman Brothers funding, the project equity, the ongoing “fake” jobs at the Tennessee and Texas projects, and ongoing DCSL money – all of which Kenner DECLINED and began negotiations to remove Jowdy and his malfeasance from the Kenner investors projects):

[Najam to Jowdy -- May 8, 2007]:

“The last thing you need is a conflict situation with another partner [like Kenner].”

In addition to the DCSL (subset) of frauds, *supra*, Jowdy also perpetrated the following frauds on Kenner and Kenner investors between 2002 and 2006 (when Jowdy was finally funded by Lehman Brothers – a source that did not require his ongoing communication with his 100% original funding source). Michael Peca told the 2011 SDNY Grand Jury that the “group” of investors was completely disgruntled when Jowdy ceased all communication (without the future need for Kenner and Kenner investors funding):

[2011 Peca SDNY Grand Jury at 30]:

Q: How much money did you put into Little Isle 4”

A [Michael Peca]: \$100,000 cash investment that was going to go towards that. Then we had lines of credit. I had one out for \$1.7 million that was going to be used at the time. Here’s where a lot of the cross starts to happen.

*A short-term loan [was made] to Mr. Jowdy because at the time Cabo – we hadn’t gotten the lending from Lehman Brothers yet. We [emphasis added] made a short-term loan until the lending came in. Once the lending came through they were to pay back the loan, I think in the neighborhood of five-and-a-half million dollars, on the closing. It was never paid back. **And then communication basically seized [sic] at that point from him [Jowdy]. That was kind of the whole sticking point as far as me and the other guys with Mr. Jowdy.**”*

[2011 Peca SDNY Grand Jury at 39-40]:

*Q: Did you understand **at the time** if you didn’t pay back the line ever credit the bank was going to take your bonds?*

A [Michael Peca]: Yes. And they did. What they took was just under \$2 million, I believe it was in 2008, maybe after a while. We were just, when the loan, the short-term loan from Mr. Jowdy was not paid back, the line of credit time matured. They had taken what was loaned, I guess, lent to me plus interest.

Mike Peca confirmed during cross-examination to the 2015 trial court (by recanting his previous testimony) that he was aware at all times of the Hawai'i-loans to Jowdy as part of a “group” decision (*Trial Tr. 498-99 and Document 501 at 9*), thus Peca, like the remainder of the Hawai'i partners that were part of his “group” decision (like Darryl Sydor and Turner Stevenson confirmed identically during Grand Jury testimonies in 2011) and cannot be deemed victims at Kenner hands for the 2004-06 Hawai'i-loans; **only utterly transparent victims of Jowdy.**

More documented Jowdy frauds against Kenner and Kenner investors...

Diamante del Mar (“DDM”)
(The first Mexico project)...

Kenner and Kenner investors were introduced to Jowdy in or about summer 2002 thru former Kenner clients who had decided (prior to the introduction) to invest independently with Jowdy, their prior acquaintance. After Kenner’s 2002 meeting and follow-up due diligence with Jowdy and his Mexico counsel, Kenner and Kenner investors began making a series of trips to visit the DDM property in Northern Baja Mexico. Contemporaneously, Kenner and Kenner investors began transferring investment funds to Jowdy specifically designated for the DDM project; *nothing else*. **Jowdy used the investors’ funds as his own piggy bank from day-1, *supra*.**

Jowdy **personally** re-affirmed the Hawai'i loans and his frauds in March 2010 [*See 3500-KJ-2*] – by confessing to FBI Agent Galioto and other SEC officers (with his attorney, Louis Freeh at his side, *at 1*) that he had received 100% of the Hawai'i funds -- and had no plans to repay any of them. The agents’ raw notes documented Jowdy’s full confession of his embezzlements, as follows:

At 3 -- KJ [Jowdy] – “all the funds were not used for DDM”

At 11 -- KJ [Jowdy] – “if I was not allowed to use S then it was a problem”

At 12 -- KJ [Jowdy] – “thought I could use S”

At 12 -- KJ [Jowdy] – “\$ from -- \$ from PK loans -- Little Isle 4 – Ula Makika”
 ○ **Jowdy verification that the 2004-06 Hawai'i loans are real...**

At 12 -- KJ [Jowdy] – “02-06 -- S used from BD [Baja Development Corp] to pay personal expenses → booked as loans from BD”

It should be highlighted that in 2019 (*Document 611 at 2*) – Jowdy's attorneys at Freeh, Sporkin and Sullivan LLP attempted to re-write history again related to the loans Jowdy has repeatedly confessed to by stating in contradiction that:

“Mr. Jowdy never agreed to borrow any of the funds used to fund any portion of the down payment from Kenner or anyone else personally.”

John Kaiser hi-lighted Jowdy's never-ending defiance in his February 28, 2019 letter to the Court as (*Document 628 at 4*):

“‘the hockey players will never see a dime’ because they said he [Jowdy] was a crook”

Kaiser's declaration echoed Jowdy's-own January 2010 deposition testimony, *which Kaiser and a number of Jowdy investors attended in person.*

Jowdy and Najam's DDM-KSI \$3 million fraud in 2006...

After diverting millions for Jowdy's personal benefit from the DDM investors' funds (2002-2006), Jowdy and Najam received a February 2006, \$3 million loan from a hard moneylender after Kenner and Kenner investors had agreed to postpone the DDM development work -- and to fund and focus with Jowdy on the new Cabo san Lucas site. Unknown to Kenner and Kenner investors, Jowdy and Najam secured the \$3 million loan by collateralizing the entire \$68.9 million KPMG appraised parcel that Kenner and Kenner investors owned “for cash” before that date (fully secured -- and the basis for the agreed upon Cabo plan).

Jowdy lied to a 2009 arbitration panel about the same \$3 million loan (because he has ZERO concerns that anyone will hold him accountable for his perjury):

Jowdy gave 2009 arbitration testimony and lied to the Arizona arbitration panel that there were “*no development loans on the property*” (more than 3 years after he and Najam acquired the February 2006 KSI –DDM loan).

Jowdy did not (or ever) care to whom or in what jurisdiction he lied to solve his “problem of the day” – or point fingers at to threaten FBI jail time anyone else his cabal could manage (several other “jail time” threats in evidence for Jowdy-adverse parties).

Jowdy's May 27, 2009 arbitration testimony was as follows [*Day 2 at 348-349*]:

ARBITRATOR CAMPBELL: On the Northern Baja project, that's the one with the airstrip and the water well. Is there anything else there?

THE WITNESS [Jowdy]: No. There's some houses that people have lived there that we bought out. Maybe three residences of different –

ARBITRATOR CAMPBELL: And that project is sort of dead in the water right now?

THE WITNESS [Jowdy]: I would like to just say it's idle.

ARBITRATOR CAMPBELL: There's no loan on it. There's no development loan on it?

THE WITNESS [Jowdy]: No.

Jowdy needed to lie in May 2009 – because neither Kenner nor the other DDM investors knew yet (3 years later) that Jowdy had fully encumbered the DDM property -- and looted the KSI loan funds within 2 months of the unnecessary February 21, 2006 loan.

The DDM bank records confirm Najam and Jowdy KSI loan thefts
(In evidence)...

According to *BATES: 10847*, Jowdy and Najam received \$2,126,732.43 from KSI into the DDM (#398 1345506) account. Although Jowdy owned LOR Management (in Mexico) 99% (with 1% owned by his Mexico attorney, Fernando Garcia), Jowdy immediately began diverting loan funds to his Mexico account to embezzle the KSI loan money.

LOR received the following (controlled by Jowdy and Garcia):

2-21-2006: \$15,000
2-24-2006: \$35,000
3-07-2006: \$50,000
3-08-2006: \$407,002.53
3-14-2006: \$10,000
3-22-2006: \$10,000
4-14-2006: \$5,000
5-02-2006: \$2,000
5-16-2006: \$3,000

Baja Management (#5296) received the following (controlled by Jowdy and Najam):

2-27-2006: \$100,000

- *Najam immediately wrote a \$100,000 check to himself from this transfer of funds (#1025)*
2-27-2006: \$40,000

Baja Management (#5296) received the following:

4-03-2006: \$50,000

- *Najam immediately wrote a \$50,000 check to himself from this transfer of funds (#1026)*

TLJ Management (#5079) received the following (controlled by Jowdy's father – Taffy Jowdy, Sr.):

3-03-2006: \$20,000

- All of the corresponding bank records for the Jowdy-family-controlled accounts, *supra*, are in the government's possession (and have been since 2009 confirming the diversions)...

Attorney Tom Harvey has been complicit in the Jowdy frauds
(Since 2002)...

Jowdy's New York attorney (Tom Harvey) had assisted Jowdy -- and was fully complicit in Jowdy's early 2002 frauds on Kenner and Kenner investors. They, together, alleged thru a series of 2002-2003 Harvey letters to each of the new DDM investors that Harvey was placing “investment liens” against Baja Development Corp – which they collectively espoused as the “development” company for the DDM project [*BATES: BN-P-000109-110*].

It was not learned until years later that Baja Development Corp was simply Jowdy's primary money laundering account. As an example – Tom Harvey sent Owen Nolan a September 9, 2002 “lien” guarantee letter claiming he was placing a lien for Nolan's September 2002 investment – in addition to liens for two other investors at that time [Khristich and Woolley – but that never happened either]. It was a calculated fraud for a number of reasons.

LOR transfer was a fraud:

Harvey claimed he was transferring title from Jowdy's Mexico Company, LOR Management S.A. de C.V. to Baja Development Corp to protect the investors with liens. But -- nobody except Jowdy ever owned Baja Development Corp, so the transfer (if it even happened) would have been another useless Jowdy-Harvey scheme to defraud.

Harvey and Jowdy transfer title to other Jowdy Mexico companies (instead):

As further confirmation, when Jowdy and Najam signed the (February, 21 2006) KSI loan without the investors' knowledge (also violating the 2004-06 Hawai'i-Jowdy loan agreement and underlying collateral agreement), the KSI lending documents confirmed that Jowdy and Harvey had never changed the Mexico owners of the property [*BATES: 10205*] to Baja Development Corp "for the investors". But in fact, the original LOR Management land sales agreements did transfer the land to two independently-owned Mexico companies; DESAROLLADORA DDM S. de R.L. de C.V. and INMOBILIARIA DDM S. de R.L. de C.V. **[owned exclusively by Jowdy – and never the investors].**

- This fraudulent transfer by Jowdy and Harvey were 100% useless to Kenner and Kenner investors -- and the \$10 million plus in DDM equity that had been invested/stolen by Jowdy between 2002 and 2006.

- **This is 100% irrefutable fraud.**

The 2006 KSI loan documents required that the DDM collateral was free-and-clear of encumbrances [starting at *BATES: 10219*]. That could not have been true – if Jowdy and his attorneys did not defraud the "lien" investors -- and the Hawai'i lending agreement since 2002.

- The individual investors' liens would have been in the first lien position on the DDM property -- and the Jowdy-Hawai'i loans (and Little Isle 4 and Ula Makika – per the Hawai'i agreement) would have been in a second lien position; ***but conveniently for Jowdy, neither was.***

Jowdy's Baja Development Corp August 2002 thefts
(Just for starters)...

Although every monthly statement for Baja Development Corp does produce fraudulent diversions, at a minimum -- the government was deftly aware of the **\$400,000-plus** in Jowdy thefts from only the first \$804,000 of DDM deposits Jowdy received from Kenner, Woolley and Khristich in September 2002. The government subpoenaed Jowdy's Baja Development Corp August 2002 bank record (only) the week before the Kenner 2015 trial (April 20, 2015).

- Thus, when the government claimed to the Court and jury that Jowdy was a victim during their opening remarks (*Trial Tr.31*), ***they knew they were lying then.***

A total of \$417,000 out of \$804,000 were immediately stolen by Jowdy:

- ...And -- the remainder of the \$804,000 (\$387,000) is not traceable without further analysis from the Jowdy thefts in the first few weeks of August 2002...

Jowdy's Baja Development Corp August 2002 bank record was submitted as part of the Kenner Rule 33 reconsideration motion as *Recon33-223*, as subpoenaed by the government on the "eve of trial". The document was never BATES STAMPED by the government.

- Page 3 of the document confirms the Baja Development Corp account was brand new (\$0 balance in August 2002) prior to the initial \$150,000 Woolley deposit.
- On page 4, the document confirms that Jowdy wired himself **\$40,000** one day after the initial Woolley DDM investment transfer on August 5, 2006, followed by another **\$35,000** just 3 days later to Jowdy's personal Wachovia Bank account [*BATES: BX21-SD-00008*]:
 - On October 2, 2002, Jowdy diverted another \$10,000 to his Wachovia account (totaling \$85,000 within 2 months) [*BATES: BX21-SD-00017*],
 - On November 5, 2002, Jowdy diverted another \$10,000 to his Wachovia account (totaling \$95,000 within 3 months) [*BATES: BX21-SD-00023*],
 - On November 13, 2002, Jowdy diverted another \$54,000 to his Wachovia account (totaling \$149,000 within 3 months) [*BATES: BX21-SD-00023*],
 - On November 29, 2002, Jowdy diverted another \$5,000 to his Wachovia account (totaling \$154,000 within 3 months) [*BATES: BX21-SD-00030*],
 - On November 29, 2002, Jowdy diverted another \$5,000 to his Wachovia account (totaling \$154,000 within 3 months) [*BATES: BX21-SD-00030*],
 - On December 13, 2002, Jowdy diverted another \$10,000 to his Wachovia account (totaling \$164,000 within 4 months) [*BATES: BX21-SD-00030*],
 - On December 17, 2002, Jowdy diverted another \$100,000 to his Wachovia account (totaling \$264,000 more within 4 months) [*BATES: BX21-SD-00030*], and
 - In January 2004, Jowdy began diverting funds to himself (again) from his laundered Baja Development Corp account totaling well over \$116,000 more [*BATES: BX21-SD-00079, 00095, 000109*]:
 - January 9, 2004 -- \$15,000,
 - January 20, 2004 -- \$28,000,
 - March 24, 2004 -- \$10,000,

- April 5, 2004 -- \$18,000,
 - July 26, 2004 -- \$20,000, and
 - August 16, 2004 -- \$25,000...etcetera
- During the initial 23 days (in August 2002), Jowdy's Baja Development Corp bank records confirm that **Jowdy diverted over \$417,000 of the initial \$804,000** DDM investment money to non-related Jowdy projects and personal family expenses (with the government's knowledge of the Jowdy's thefts no later than the "*eve of trial*"); including but not limited to:
 - His father, Taffy Sr.'s **TLJ Management Account** (#3981345292 -- **\$250,000** -- and opened on the same day as diversion of funds on 8-16-2002),
 - Jowdy's **COT restaurant operating account** (#3980294726 -- **\$81,669.68**), and
 - Jowdy's **COT restaurant payroll account** (#3981345289 -- **\$11,000**).

The balance of the Baja Development Corp funds for August 2002 (\$387,000) cannot be traced solely with the bank statement records, but more likely than not, additional funds were immediately diverted via check and wired to non-DDM related accounts.

In the following months of 2002 on the Baja Development Corp statements (in the government's possession -- in evidence), there are more embezzlement transfers from the DDM investors' money to Jowdy's father's two car loan payoffs, a transfer to a now-dead famous country singer, Mindy McCready (for Roger Clemens hush money according to Jowdy -- see 3500-KJ-2 at 14, BX-SD-000366), and other unrelated Jowdy-family-only causes, totaling into the millions of criminal diversions (with the majority of the transfers untraceable with the basic monthly statements), nevertheless:

- In September 2002 -- before the next \$500,000 investment from a Kenner client on 9-24 & 9-27 -- Jowdy **diverted**:
 - **\$22,000 more** to his COT restaurant Management account (#4726) &
 - **\$17,500 more** to his LMJ Management (#5292)...
- In October 2002 -- Jowdy diverted another **\$70,000**:
 - \$20,000 & \$10,000 **more** to his COT restaurant (#4726) account &
 - \$40,000 **more** to his COT restaurant PAYROLL (#5289) account (with all funds deposited for the DDM project) [*BATES: DIAMANTE-000010*]...
- In December 2002 -- Jowdy diverted another **\$130,000**:
 - **\$100,000 more** to LMJ Management (#5292) -- and

- **\$30,000 more** to the COT restaurant payroll (#5289) [BATES: DIAMANTE-000016]...
- On December 17, 2002 – pursuant to a letter [BATES: 13321] drafted by William Najam (Jowdy's brother-in-law):
 - Jowdy transferred another \$100,000 from Baja Development Corp into his personal account bank account at Wachovia Bank –
 - Then washed it thru his Baja Management account [BATES: 11676] -- and
 - Ultimately washed it again by check to Diamante del Mar [BATES: 10953] as Jowdy's personal money...(just as the Najam letter outlined to Jowdy's banker!!)...
- In January 2003, Jowdy diverted another **\$270,000**:
 - **\$170,000 more** through his personal LMJ account (#5292) -- and
 - **\$100,000 more** to his COT restaurant account (#4726) [BATES: DIAMANTE-000019]...
- In April 2003, Jowdy diverted another **\$50,000** to his personal bank account (#3407) [BATES: DIAMANTE-000025]...
 - ...And it continues month -- after month -- after month...etcetera.¹⁰

Nevertheless, with Jowdy giving 2010 FBI proffer with his well-connected legal team alongside him (*See 3500-KJ-2 at 1*), the FBI agents' *raw notes* stated:

"If I wasn't allowed to use S then it was a problem" – and

"Thought I could use S" – and

"All of the funds were not used for DDM" – and

The agent's raw notes described Jowdy diverting \$110,000 of investor money for his own capital account, *supra*, "b/c PPM said that KJ [Jowdy] needed to contribute \$" with "*source of \$110k from BD Corporate – from initial investors S*", *supra* – and

"Not sure if he told PK [Kenner] what S was to be used for"

¹⁰ It should be noted that Jowdy was also paying himself an \$87,5000 per quarter salary (\$350,000 per year) thru Baja Management LLC to manage his DDM and Baja Development Corp embezzlements and development machinations; beginning immediately in 2002 [BATES: 11486 – check #1025].

If any other person had confessed to any one of the diversions and embezzlements, *supra*, they would have been indicted immediately and arrested – but not Jowdy.

The following are another “subset” of Jowdy-only diversions and embezzlements from the Baja Development Corp for his own-personal benefit:

Jowdy's Diamante Air (plane) fraud on multiple investors including Kenner...

In April 2004 (with the DDM investors funds drying up, *supra*), Jowdy approached Kenner and other investors about buying a Falcon 10 jet that he had been renting to promote the DDM project (according to Jowdy)¹¹. Kenner and several investors agreed. In April 2004, three initial investors wired Jowdy \$250,000 apiece to Jowdy's newly established Diamante Air bank account (#3982295150 at Hudson United Bank) for the newly formed LLC. The first three wires arrived [*BATES: KJ7161*]:

April 04, 2004 -- \$250,000

April 14, 2004 -- \$250,000

April 27, 2004 -- \$250,000

These transfers were never used to purchase the plane. Yet -- Jowdy confirmed the new Diamante Air LLC purchased the plane in 2004 (on behalf of the investors), while Jowdy flew non-stop in the jet “*on behalf of the DDM promotions*”.

- When the Diamante Air funds were exhausted by Jowdy's embezzlements, Jowdy began diverting more DDM investor funds to the Diamante Air account to cover his non-stop private jet travel expenses; unknown to the Diamante Air and DDM investors.

1-1/2 years later – Jowdy fraudulently completes the Falcon 10 purchase (with two more criminal twists):

The Falcon 10 jet was not actually acquired until Jowdy defrauded Kenner and the other airplane investors in November 2005 (1-1/2 years later) when Jowdy arranged for a loan from First Source Bank; *allegedly for \$760,000 of engine and landing gear maintenance that the prior owner had defrauded Jowdy, according to him.*

¹¹ Jowdy's Baja Development Corp bank records also revealed that before Jowdy even paid for the purchase of the DDM land in Mexico, he diverted \$100,000 to pay for a *Marquis Jet* private jet service for himself. There was no plausible excuse for Jowdy's need of the private jet service in 2002 related to DDM &/or its investors.

But -- Jowdy actually defrauded his own partners in order to finally acquire the plane after stealing the original \$750,000-plus deposit funds (for his own use -- [BATES: KJ7160 thru 7166] within 2 months) – and subsequently another \$500,000 from Kenner and the last investor (not counting his \$430,000 in loan thefts, *infra*). Amongst other diversions from the deposit funds, Jowdy transferred **over \$210,000 more** within 6 weeks to his father's TLJ Management account (#3982295079) from the stolen funds [BATES: KJ7160 thru 7166].

Jowdy fraud on Mattias Norstrom:

Jowdy's father (and co-conspirator), Taffy Sr., was part of Jowdy's initial frauds against Kenner and Kenner investors when Taffy Sr. issued and mailed the original \$500,000 “repayment check” from Baja Development Corp to Mattias Norstrom for a 2004 personal loan to Jowdy [BATES: PKHOME 0017314], still unpaid today; wholly admitted to by Jowdy during his January 6, 2010 deposition (6 years later) [at 412]:

Q: Did Mattias Norstrom give -- was there -- there was a -- you testified yesterday that there was a 500,000 dollar check from Baja Development Corp. That was issued to Mattias Norstrom but never cashed. Do you remember that?

A [Jowdy]: Yes.

Q: Is that going to -- is that check going to be made good at any time that you're aware of?

A [Jowdy]: I don't know.

Fifteen years later (in 2019) – the Norstrom check (for the 2004 Jowdy loan) has never been made “good funds” by Jowdy (perhaps contributing to Norstrom's CSL Properties frustrations – See *CSL Properties February 1, 2019 filed letter* – but not because of Kenner fraud). In August 2006, Jowdy received a \$650,000 “referral fee” from his friend at Lehman Brothers (into his Baja Development Corp money laundering account from Masood Bhatti – See *Kaiser Document 628* – substantiating the present [2019] ongoing criminality between Bhatti and Jowdy over a decade later).

- ***Jowdy never repaid the Norstrom loan – nor paid IRS taxes on the referral payment.***

In addition, Jowdy stole Kenner's \$72,500 deposit for another Cabo property after Jowdy referred the deal to another potential buyer (*after* cancelling Kenner's purchase contract in Mexico -- without Kenner's knowledge) [See BATES: PKHOME 0016860].

[January 6, 2010 Jowdy deposition at 405-406]:

Q: And did Mr. Kenner and his clients provide the deposit money for the option to purchase the land next to the Cabo property?

A [Jowdy]: I believe so.

Q: Was it about 72,000?

A [Jowdy]: I believe so. I don't remember.

Q: And do you know what happened to the 72,000-dollar deposit?

A [Jowdy]: I don't.

The First Source Bank plane loan fraud cover-up
By Jowdy for his initial \$750,000-plus thefts...

On 2-17-2006 – only 4 days before Jowdy and Najam signed the February 21, 2006 KSI loan, *supra*, Jowdy looted another \$140,000 straight from the Diamante Air loans that were personally guaranteed by Kenner and Sergei Gonchar [*BATES: BNK-SOURCE-0000002*]; again unknown to them.

- **Neither Kenner nor Gonchar authorized any of the diversions.**

In fact, in order for Jowdy to perpetrate this February 2006 fraud and another \$290,000 of pilfered loan funds in February 2006 for his personal benefit [*BATES: PKHOME-000016310*], Jowdy submitted a *fabricated* Diamante Air operating agreement on November 16, 2005, two days *after* he fraudulently signed the First Source Bank loan documents on November 14, 2005 as the Managing Member; instead of Kenner to hide his immediate diversions [*BATES: BNK-SOURCE-00000913 thru 920 (operating agreement)*] and bank documents at [*BATES: BNK-SOURCE-00000744*].

First Source Bank had received the authentic operating agreement from Kenner months earlier [*BATES: BNK-SOURCE-0001049 thru 1054*].

For the plane loan guarantee, Jowdy claimed Kenner [*BATES: PKHOME-000016311-12*] and Gonchar [*BATES: PKHOME-000016313-14*] only needed to sign two-page guarantees 3 days before Jowdy fraudulently signed the Diamante Air loan documents

[BATES: KJ2484]. This is confirmed (in evidence) in an email Kenner questions Jowdy about the 2-page-only bank documents for the single plane loan.

With fabricated control of the Diamante Air Managing Member status (per the fake Diamante Air operating agreement of November 16, 2005), **Jowdy added another aircraft** to the loan, unknown to Kenner and Gonchar [BATES: PKHOME-00016309], before defaulting on the total loan amount of over \$1,000,000 specifically to harm Kenner and Gonchar (creating conflict), while the investors were in an adverse position to Jowdy -- after he and Harvey terminated the 2007-08 attempted global negotiations.

Kenner received the evidence of the Jowdy document frauds as the Managing Member of Diamante Air only after First Source Bank sued he and Gonchar [BATES: BNK-SOURCE-00001518 and 1523] due to Jowdy's frauds on the Diamante Air investors (including Kenner, Gonchar, Sydor, Norstrom and Stumpel) and Jowdy neglecting the loan payments.

Metro (plane) fraud on Diamante Air investors (specifically Kenner and Gonchar):

With the fabricated (a.k.a. fake) Diamante Air operating agreement in place at First Source bank [BATES: BNK-SOURCE-0001645-1649] (after First Source realized Jowdy was not an authorized signor 2 days earlier – November 14, 2005), Jowdy not only embezzled \$430,000 cash from the loan, but he added a second aircraft to the guarantee; wholly unknown to Kenner and Gonchar.

Jowdy defrauds another unknown investor with fake plane collateral:

Jowdy was desperate to add a second plane to the loan -- and buy it, because even before Jowdy fraudulently owned the plane (by defrauding the Kenner and Gonchar bank guarantee), Jowdy used the second plane as secured collateral for a \$475,000 loan he received in June 2005 from Karl V. Weichinger.

- **Jowdy collateralized a plane he did not own [Bates: 8456-8461].**

Jowdy's childhood friend, Mark Thalmann, was assisting Jowdy in the airplane frauds (of Diamante Air and Weichinger – in evidence). Then, Jowdy stole \$290,000 of funds from the Kenner-Gonchar guarantee to re-start \$9,995 monthly loan repayments to Weichinger by finalizing the plane-fraud and adding the second airplane to the guarantee in November 2005. Notwithstanding all of the airplane(s) frauds, *supra*, Jowdy then abandoned the plane, failed to make payments on the loan, and abandoned the loan once Kenner uncovered the other Jowdy thefts and frauds upon all of the real estate investors.

In November 2005, when Jowdy was desperate to make an overdue loan payment to Weichinger (with the fraudulent collateral), Jowdy added \$290,000 to the Diamante Air loan in November 2005 (unknown to Kenner and Gonchar). After Jowdy bounced 2 checks to Weichinger (NSF – “insufficient funds”) [*BATES: 7186-7187*], Jowdy utilized the stolen \$290,000 to make good on the monthly payment [*BATES: 7190 (check)*]. Jowdy debited the stolen \$290,000 funds from the Diamante Air account for his personal benefit within 60 days, sharing some with his father, Taffy Sr. (in evidence).

Jowdy defrauds Glen Murray with another unpaid loan scheme...

This \$791,000 Jowdy scheme was the only lawsuit that made it to a trial. In 2005, Jowdy begged Kenner and other associates of Jowdy (unknown to Kenner at the time) to “find” an \$800,000 loan for him to acquire 3 residential units in the Palms hotel in Las Vegas from his acquaintance and hotel owner, George Maloof.

Jowdy attempted to borrow the funds from the existing Jowdy-Hawai'i loan agreement. Kenner declined to lend the Hawai'i funds for that purpose, because those funds were “purposed” for assisting in the Mexico projects – thru the personal Jowdy guarantees.

- Please note that Jowdy and his attorneys authenticated the 2004 Hawai'i-Jowdy loan agreement in his case-in-chief defense (*See December 1, 2010 Nevada trial Tr.195-199*).
- Thus it hi-lighted that when the government alleged the loan and its agreement was “bogus” (*Tr.5708 (2x), 5709*), “phony” (*Tr.4597, 4598*) and “supposed” (*Tr.5707-5708*) during the attacks on Kenner's veracity during trial, **they knew it was authentic – and lied to the jury and Court.**

Jowdy's desired residences in Las Vegas were solely for Jowdy's personal use. As a result, Jowdy sought loans from multiple sources, including but not limited to his former Director of Golf in Mexico, Robert Gaudet. Gaudet had transmitted Jowdy's \$800,000, 30-day, 10% offer to multiple hard moneylenders. None of them accepted the Jowdy deal in spite of Jowdy's collateral promises [*BATES: PKHOME 00017092, PK SEC 01735 at 9 footnote 11*].

Ultimately, DDM investor Glen Murray agreed to loan Jowdy the 30-day funds. Within 2 weeks of Jowdy's escrow accounts directly receiving Murray's loan funds, Jowdy's Las Vegas deal fell thru and Jowdy received the funds back from the Las Vegas escrow group. Jowdy defrauded the escrow company by signing an affidavit that the funds

originally came from him; in lieu of the empirical evidence that Glen Murray directly deposited the funds into the 3 independent Jowdy escrow accounts.

In contradiction to the immediate email demand by Kenner to for Jowdy to return the funds to Murray (including the Murray wire instructions) [*BATES: PK_SEC_01737 at 9 footnote 16*] – Jowdy alleged that thru “magic” Kenner actually received the Murray funds as part of his defense at trial – despite the empirical evidence to the contrary of no magic). The seasoned Nevada judge ruled against Jowdy as a defendant to Murray -- and against Jowdy as a 3rd party plaintiff versus Kenner [*BATES: PK_SEC_01727-1752*] – seeing thru Jowdy's defense team's fabricated cover-up stories.

The Vegas fraud on Murray by Jowdy:

Instead of returning Murray's funds, Jowdy chose to steal the \$791,000 by transferring it to his Baja Development Corp account and then immediately to other payees Jowdy desperately owned funds to within days in order to keep his Ponzi scheme in motion. Jowdy's own accounting records – created by his personal friend, Mark Thalmann -- during the December 2010 trial confirmed Jowdy's 100% control and theft of Murray's funds at all times; in contradiction to Jowdy's trial proffers that he did not know how he got all of the money or who he received it from [*BATES: PKHOME 001045-001048*].

The court confirmed the Kenner real time email demand to Jowdy for the return of funds to Murray's source account. Jowdy never complied, lost in his trial defense, and has been saddled with a \$1,000,000 plus judgment for his theft (his pattern). It is still unpaid in 2019 despite the decade of Jowdy budget pilfering and 3rd party diversions since that day (as submitted by Kenner during the 2019 forfeiture oral arguments to the Court docket).

Perhaps, John Kaiser was right about one thing when he hi-lighted Jowdy's defiance in his February 2019 (*Document 628 at 4*) letter to the Court as:

“‘the hockey players will never see a dime’ because they said he was a crook”

Conclusion

Defendant Kenner utilized only banking records and evidence from the government's own production, which corroborate the criminal diversions and embezzlements from every one of the “*projects*” and “*loans*” Jowdy “*touched*”, related to Kenner and Kenner investors (and others) since August 2002.

Jowdy's banking records specifically lay out nearly two (2) decades of criminal activity (including his ongoing DCSL frauds – corroborated by his former insider and co-conspirator (John Kaiser) from 2012-2017; including IRS “no-tax” benefits for both of them.

With Kenner and Kenner investors as victims, despite the number of times Jowdy and his attorneys want to grandstand in contradiction to the truths -- ***these are not hearsay revelations; they are empirical and irrefutable.***

Kenner remains available at all times to explain the Jowdy crimes, *supra*, with 100% empirical back-up to the U.S. government, the FBI, the Court, or ***any alternative investigative agency*** that would really like to uncover the last two decades of criminality that has abused Kenner and all others involved – and the cabal responsible for the cover-ups.

Sincerely,

Phil Kenner